

THE CORPORATION OF THE MUNICIPALITY OF KILLARNEY

Committee of Adjustment Meeting
Via Electronic Participation
Location: Municipal Council Chambers

May 12th, 2020

4:45 P.M.

PRESENT: *MAYOR:* Virginia Rook

COUNCILLORS: Barbara Anne Haitse Michael Reider Jim Rook
John Dimitrijevic Nancy Wirtz

ABSENT: Nil

DISCLOSURE: Nil *[all Council individually polled]*

STAFF: Clerk-Treasurer – Candy Beauvais
Deputy Clerk-Treasurer – Gilles Legault
Administrative Assistant – Angie Nuziale
Project Manager – Kelly Champaigne
Chief Building Official – Andrea Tarini
via telephone

MEMBERS OF PUBLIC: 4 *[announced themselves on teleconference]*

DELEGATIONS: Nil

GUESTS: Matthew Dumont, Director of Planning
Sudbury East Planning Board
via telephone

The Chair, Nancy Wirtz called the meeting to order at 5:02 PM.

The Chair proceeded with roll call then read the following statement:

On March 19, 2020, Bill 187, *Municipal Emergencies Act, 2020* came into force. This legislation amends the *Municipal Act, 2001* to permit municipalities to amend their procedural bylaws to provide that, during emergencies, members of Councils, local boards, and committees who participate in meetings electronically may be counted for the purposes of determining quorum. The Municipality of Killarney has decided to make such an amendment to its procedural bylaw in response to the COVID-19 pandemic. Accordingly, meetings of the Municipality's Council, local boards, and committees will be conducted by teleconference. The public will also be able to observe such meetings in the same manner.

Further to the COVID-19 pandemic and to promote the health and safety of the public, members of Council and staff, it is hereby the decision of Council that this meeting will be held via teleconference and the meeting will also be recorded. This is further enforced by an Order in Council made under the Emergency Management and Civil Protection Act on March 28, 2020 which prohibits any person from attending an organized public event of more than five people.

20-001 BY MICHAEL REIDER - JOHN DIMITRIJEVIC

BE IT RESOLVED THAT the Agenda be accepted as distributed.

RECORDED VOTE		
	<i>FOR</i>	<i>AGAINST</i>
Z. DIMITRIJEVIC	<u> x </u>	_____
B. HAITSE	<u> x </u>	_____
M. REIDER	<u> x </u>	_____
J. ROOK	<u> x </u>	_____
V. ROOK	<u> x </u>	_____
N. WIRTZ	<u> x </u>	_____

CARRIED

The Chair stated that this Committee of Adjustment Meeting was scheduled in order to hold a Public Hearing to discuss two proposed Minor Variances:

1. Application No. A/05/20 KL (Candis Burdekat)
2. Application No. A/06/20 KL (Pickerel River Co-operatice Corporation)

The Committee of Adjustment is holding a Public Hearing to decide whether or not to approve a Minor Variance Application. The Committee will be presented with the details and background to the minor variance application and will receive comments from the public and agencies before a committee decision is made.

The Chair briefly summarized the procedure to be utilized for the Hearing. The Director of Planning for the Sudbury East Planning Board, Mr. Matthew Dumont, advised the Committee as to when, how, and to whom Notice of Public Hearing was circulated.

Mr. Dumont advised the purpose and effect of the minor variance applications and provided other information that was relevant to the applications.

The Director then stated that the Notice of the Public Hearings were posted in the Municipal Office and were sent by Mail to the assessed owners within 60 metres of the properties subject to the Minor Variance Application, and to those persons and agencies likely to have an interest in the applications. The notices were sent on April 29th, 2020 being over ten (10) days prior to this evening’s meeting.

Included with each Notice was an explanation of the purpose and effect of the minor variance applications and a key map showing the location of each property.

The Chair then declared this portion of the meeting to be a Public Hearing to deal with **Application No. A/05/20/KL (Candis Burdekat)**. Mr. Dumont advised of the purpose and effect of the minor variance application, provided additional information that was relevant, and summarized the correspondence received to date regarding the application as follows:

An application has been received from FAD Architects (Matt Ryan) for variance(s) to the Residential Two (R2) of By-law 2014-29, as amended, in order to covert the existing single-detached dwelling located at 12 Channel Street into a fourplex

	<u>Zone Requirement</u>	<u>Proposed</u>
Section 6.35(a)(ii). Parking Space Requirements. Multiple dwelling units -Fourplex	4.0	3.0
Sections 6.35(d)(i). Ingress and Egress Passageways width	4.0 metres	3.0 metres

With respect to the Official Plan, Section 2.1.3.1 of the Official Plan indicates that Community Policy Areas have the highest concentration and intensity of land uses, are **the primary focus for residential** and provide the **largest range of dwelling types** in the Planning Area. Also, Community Policy Areas demonstrate a **strong potential to provide full municipal sewer and water services**.

Section 2.2.5, lands designated 'mixed-use' are intended to be the primary focus for a wide variety of commercial, **residential**, institutional, and light employment uses in the Sudbury East Planning Area. Existing single detached dwellings may be **converted to multiple dwelling units** or to commercial **buildings provided the external design of the building does not substantially change and servicing capacity is available**.

Section 4.2.5 provides direction for reviewing applications for minor variance as outlined in Section 1 of this report. Further that when evaluating desirability:

- i. The resulting development would be compatible with adjacent uses and in character with the established or planned development in the area;
- ii. Adequate provision is made for vehicular access and off-street parking;
- iii. Adequate buffering, screening and landscaping can be provided; and
- iv. The application deals with circumstances particular to the site in which design of the building and structure in conformity with the by-law is not feasible or possible.

The above noted policies conform to the proposed fourplex for the following reasons; the density, height and characters of the development will be maintained based on the 3D renderings and cross sections received by FAD Architects. The proposal has direct access from Channel Street which is a local road that is maintained year-round. Watermains and sanitary sewers are capable of accommodating the development. The proponent will enter into site plan control in order to ensure that the visual impact of the development on adjacent uses is minimized. As part of Site plan control, parking will be provided in accordance with policies of Section 3.3.2.33.

With respect to zoning, the Residential Two Zone allows for a range of residential uses including; a converted dwelling, **fourplex**, multiple dwelling, street townhouse, triplex etc.

Sections **6.35 Parking Area Regulations**, **6.36 Planting Strips**, and **7.2 Residential Two Zone** for a dwelling unit and an accessory structure will be addressed as part of the Site Plan process. The lot does not conform to the minimum lot area and the minimum lot frontage requirements of the Residential Two Zone.

With respect to agency comments:

The Clerk for the Municipality of Killarney: The original design showed five parking spots so why are they reducing to three parking spots if there are four units. Should it be four parking spots? Also, concern that there is sufficient parking spaces on the property and that there is no parking on the roadway. Also, owners be made aware that for each unit, there will be four water and four sewer units assessed.

The Planner stated he received the following email from Matt Ryan, FAD Architects which he read:

1. With respect to the request for a reduction in parking spaces, we had originally laid out the parking to fit across the back of the lot but in one of our consultation meetings it was recommended that in order to make it easier for snow plowing in the winter it would be better to reorient the parking so the plow could drive straight in and pile snow in the snow storage area without the need to move cars. This reduced the spaces available in the winter months to 4 cars. However, in the summer months when traffic is at its highest in town we can utilize that snow storage area for additional parking and can fit an additional 2 spots. Thus providing 6 spaces during the peak season.

2. The orientation the building was changed from the initial proposal to avoid blasting the existing rock outcrop to the east side of the property and to try and maintain as much of the existing character of the street as possible.

With respect to public comments:

14 Channel street objects to the proposal for the following reasons; not to permit the single detached dwelling to be converted to a fourplex, insufficient parking spaces, parking spaces to be clearly designated and marked, adjacent lands not to be available to be procured, and no encroachment on the subject property.

The Planner indicated this issue involving the Land Use Permit for the fourplex was dealt with months ago.

Staff recommended that the variances be approved as they are minor, appropriate in nature, and the intent of both the Official Plan and Zoning By-law are maintained.

The Chair invited any presentations from the applicant that he/she may want to make.

Matt Ryan, from FAD Architects, wanted to clarify that during the winter months (low period), there would be 4 parking spots available. In the summer months (peak season), there would be 6 parking spots available. The owners are keeping with the original character of the building. The garage in the back could potentially be used as another parking space but its primary use is for garbage, storage etc.

The Chair invited questions and comments from members of the public and the committee.

A member of the public was confused about the parking and needed clarification.

Questions were raised regarding the number of elevations in the drawings. The member of public wanted to know if this was the most current plan to which the architect stated yes.

Questions from the public arose regarding the building itself.

Is it being torn down and rebuilt? Are they one-bedroom or two-bedroom units?

The architect stated they are tearing down and rebuilding, keeping the same character of the building. They will be one-bedroom units.

Will they be full year-round rentals or just seasonal rentals?

These questions and comments regarding the application were answered by Mr. Dumont which he stated that this type of information has no impact by the Planning board – it is up to the owner to decide regarding the rentals.

Since there were no further questions, the Chair declared the Public Hearing be concluded and asked the Secretary to read the resolution and the Chair then called for the vote.

20-002 BY BARBARA ANNE HAITSE - JOHN DIMITRIJEVIC

BE IT RESOLVED THAT the Minor Variance Application No. A/05/20/KL (Municipality of Killarney) – Property Roll No. 5136 000 001 05100 – 1. to permit three parking spaces for the fourplex instead of the required four spaces; 2. To permit a passageway width of 3 metres instead of the required 4 metres and that the necessary Notice of Decision be prepared.

RECORDED VOTE		
	<i>FOR</i>	<i>AGAINST</i>
Z. DIMITRIJEVIC	<u> x </u>	_____
B. HAITSE	<u> x </u>	_____
M. REIDER	<u> x </u>	_____
J. ROOK	<u> x </u>	_____
V. ROOK	<u> x </u>	_____
N. WIRTZ	<u> x </u>	_____

CARRIED

The Chair stated there had been a regulatory change for municipal *Planning Act* decisions made between February 26 and April 14 took place. While the regulation (O.Reg 149/20) is complex, it clearly requires that decision notices will have to be re-posted and a new 20-day appeal period will need to run once the Emergency has ended.

Therefore, please be advised that there is a 20 day appeal period once the Emergency has ended (to be determined) during which time any person or public body may, not later than 20 days after the day that the giving of written notice as required by Section 45 of the Planning Act is completed, appeal to LPAT by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee prescribed under LPAT. During this appeal period, no building permit may be issued or other work commenced.

The Chair adjourned Minor Variance Application No. A/05/20 KL to be concluded.

The Chair then declared the next portion of the meeting to be a Public Hearing to deal with **Application No. A/06/20/KL (Pickerel River Co-operative Corporation)**. Mr. Dumont advised of the purpose and effect of the minor variance application, provided additional information that was relevant, and summarized the correspondence received to date regarding the application as follows:

An application has been received from Pickerel River Co-operative Corporation for a variance to the Waterfront Residential Zone (WR) of By-law 2014-29, as amended, in order to facilitate the reconstruction of a sleep cabin. The following variance is being requested:

	<u>Zone Requirement</u>	<u>Proposed</u>
Section 7.2.2 (c)i. Distance from the Optimal Summer Water Level (all accessory buildings)	20.0 metres	12.0 metres

With respect to the Official Plan, the Waterfront Policy Area is intended to provide the main locations for seasonal and limited permanent residential, recreational and tourism oriented commercial uses. Development in these areas is intended to be on private services.

Section 2.2.9.1. 4 states that in the Waterfront land use designation, one primary dwelling is permitted on each residential lot. **A single secondary sleeping cabin may also be permitted** provided it complies with provisions of the implementing Zoning By-law. Now, the existing structures (approximately 15 sleep cabins) located on the subject property are legal non-conforming, therefore the use of the sleep cabin would comply with the Zoning By-law. The sleep cabins were constructed around the 1960's and provided accommodation the CN employees.

Section 4.2.5 provides direction for reviewing applications for minor variance as outlined in Section 1 of this report. Further that when evaluating desirability:

- i. The resulting development would be compatible with adjacent uses and in character with the established or planned development in the area;
- ii. Adequate provision is made for vehicular access and off-street parking;
- iii. Adequate buffering, screening and landscaping can be provided; and
- iv. The application deals with circumstances particular to the site in which design of the building and structure in conformity with the by-law is not feasible or possible.

i. compatibility

The property is water access, the nearest public docking area is approximately 12.5 kilometers from Smith Marine, off Highway 69. The proposed variance would not have a significant impact on the character of the area or adjacent properties because the subject property consists of 15 existing sleep cabins which are legal non-conforming uses.

ii. parking

The subject lands are water access only. There are sufficient docking facilities at Smith Marine.

iii. buffering

The subject lands are surrounded by crown lands to the north, to the east a CN right-of-way and to the west a waterfront residential lot. The subject property is over 5 hectares in lot area which is equivalent to 12.5 acres so the acreage provides sufficient buffering between the existing sleep cabins and the adjacent property to the west.

iv. circumstances particular to the site

Staff attended the site on May 12th, 2020. The property owners wish to reconstruct and expand a legal non-conforming sleep cabin identified on the aerial photography which will further encroach into the Optimal Summer Water Level (OSWL) setback, thus requiring a minor variance application. The sleep cabin will be approximately 14 feet by 24 feet with an additional 64 square feet added to the rear of the structure, but most importantly, the sleep cabin will remain under the maximum gross floor area of 46.5 square metres. The property owners will be partially using the existing footprint of the sleep cabin.

With respect to zoning, the 'Waterfront Residential (WR)' Zone requires a minimum lot area of 0.8 hectares and a minimum lot frontage of 60.0 metres. The subject property meets these requirements.

A reduced setback from the optimal summer water level is being requested to permit a setback of 12.0 metres instead of the required 20.0 metres for the proposed new sleep cabin.

The proposal is consistent with section 6.32 non-conforming uses; (a) to prevent the use of any land, building or structure for any purpose prohibited by this By-law if such land, building, or structure was lawfully used for such purpose on the day of the passing of this By-law, **so long as it continues to be used for that purpose.** The use will be continued as a sleep cabin.

With respect to agency comments:

The Clerk for the Municipality of Killarney: no concerns regarding the application.

Building Services: No issues – April 21st, 2020.

Staff recommended that the variances be approved as they are minor, appropriate in nature, and the intent of both the Official Plan and Zoning By-law are maintained.

The Chair invited presentations from the applicant that he may want to make.

The applicant was on the teleconference but had nothing to add.

The Chair invited questions or comments from members of the public and the committee.

There were no questions or comments regarding the application.

Since there were no further questions, the Chair declared the Public Hearing to be concluded and asked the Secretary to read the resolution and the Chair then called for the vote.

20-003 BY JIM ROOK – JOHN DIMITRIJEVIC

BE IT RESOLVED THAT the Minor Variance Application No. A/06/20/KL (Municipality of Killarney) – Property Roll No. 5136 000 008 01601 – to reconstruct a legal non-complying sleep cabin 12 metres from the optimal summer water level instead of the required 20 metres be approved and that the necessary Notice of Decision be prepared.

RECORDED VOTE		
	<i>FOR</i>	<i>AGAINST</i>
Z. DIMITRIJEVIC	<u> x </u>	_____
B. HAITSE	<u> x </u>	_____
M. REIDER	<u> x </u>	_____
J. ROOK	<u> x </u>	_____
V. ROOK	<u> x </u>	_____
N. WIRTZ	<u> x </u>	_____

CARRIED

The Chair stated there had been a regulatory change for municipal *Planning Act* decisions made between February 26 and April 14 took place. While the regulation (O.Reg 149/20) is complex, it clearly requires that decision notices will have to be re-posted and a new 20-day appeal period will need to run once the Emergency has ended.

Therefore, please be advised that there is a 20 day appeal period once the Emergency has ended (to be determined) during which time any person or public body may, not later than 20 days after the day that the giving of written notice as required by Section 45 of the Planning Act is completed, appeal to LPAT by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee prescribed under LPAT. During this appeal period, no building permit may be issued or other work commenced.

The Chair adjourned Minor Variance Application No. A/06/20 KL to be concluded.

20-004 BY JIM ROOK – MICHAEL REIDER

BE IT RESOLVED THAT the Committee of Adjustment Meeting held May 12th, 2020 be adjourned at 5:45 P.M.

RECORDED VOTE		
	<i>FOR</i>	<i>AGAINST</i>
Z. DIMITRIJEVIC	<u> x </u>	_____
B. HAITSE	<u> x </u>	_____
M. REIDER	<u> x </u>	_____
J. ROOK	<u> x </u>	_____
V. ROOK	<u> x </u>	_____
N. WIRTZ	<u> x </u>	_____

CARRIED

ORIGINAL DOCUMENT SIGNED

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Nancy Wirtz, Chair

ORIGINAL DOCUMENT SIGNED

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Candy Beauvais, Secretary